THE HON'BLE SRI JUSTICE C.V. RAMULU

Monday, 16th October, 2006

W.P.No.20842 of 2003

Between:

Smt. B. Ramulamma … Petitioner

and

The Revenue Divisional Officer,
Nellore, Nellore District … Respondent

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.20842 of 2003

ORAL ORDER:

This Writ Petition is filed seeking a Mandamus to declare the Notification dated 28-8-2003 issued by the respondent insofar as reserving Bandarupalli fair price shop, Atmakur Mandal, Nellore District for Scheduled Caste category as illegal and without jurisdiction and to direct the respondent to reserve Bandarupalli fair price shop, Atmakur Mandal for Physically Handicapped persons.

It seems, the original fair price shop dealer of Bandarupalli village, Atmakur Mandal died; therefore, it was allotted to his wife temporarily. Subsequently, she also resigned. Thereafter, the petitioner was appointed on temporary basis with effect from 5-7-2003. While so, the impugned notification was issued for filling up of the fair price shop dealership of Bandarupalli village reserving the same to the Scheduled Caste category. Aggrieved by the same, the present Writ Petition is filed.

According to the petitioner, since number of S.C. candidates have already been working in the Division, there is no necessity of reserving Bandarupalli village in favour of S.C. candidate.

A detailed counter affidavit has been filed by the respondent denying the allegations made by the petitioner and stating *inter alia* that at present 580 shops are existing in the Division and the reservations are allotted as under:

Category of F.P. Shop to be existing	30% reservation to women --- Men Women Total	Existing F.P.shops in the Division --- Men Women Total
S.Cs. 15%	61 26 87	51 39 90
S.Ts. 6%	24 11 35	18 13 31

B.Cs 25%	101	44	145	95	42	137
P.H.C. 3%	12	5	17	13	6	19
O.Cs.	197	84	281	191	78	269
Coop.	0	0	0	0	0	15
	395	170	580	371	175	561

From the above, it is clear that the vacancies reserved in Nellore Division for the Scheduled Castes (15%) are 61 men and 26 women (the total being 87) and now the existing fair price shop dealers in S.C. category are 90. Thus, there are three (3) dealers, more than the vacancies reserved for SC category. Even in the Physically Handicapped category also, against 17 vacancies reserved for that category, 19 persons are functioning as fair price shop dealers. On the other hand, though the total vacancies earmarked for OCs are 281, only 269 persons are working in that category.

Under the above circumstances, I am of the opinion that the impugned notification reserving Bandarupalli fair price shop, Atmakur Mandal for SC category and calling application for filling up of the same from the SC candidates is arbitrary and illegal. As such, the impugned notification is liable to be set aside and is accordingly set aside.

Accordingly, the Writ Petition is allowed. However, the respondent is directed to consider earmarking of the fair price shop of Bandarupalli village against OC candidates and call for applications from that category. Till the notification is issued and appointment is made, the petitioner shall not be disturbed. No order as to costs.

16-10-2006

prk